

AMENDED IN ASSEMBLY APRIL 21, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2594

Introduced by Assembly Members Mullin and Nunez
(Coauthors: Assembly Members DeSaulnier and Lieu)

February 22, 2008

An act to add and repeal Chapter 7 (commencing with Section 33700) of Part 1 of Division 24 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2594, as amended, Mullin. Redevelopment: affordable housing.

The Community Redevelopment Law requires a redevelopment agency to deposit not less than 20% of all taxes the agency receives in a Low and Moderate Income Housing Fund and allocate those funds for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined, to persons and families of low or moderate income, lower income households, very low income households, and extremely low income households, unless the agency makes specified findings.

This bill would authorize a redevelopment agency, until January 1, 2013, to expend money from the fund to (1) purchase, assume, or refinance subprime *and nontraditional* mortgages, as defined, on homes owned by persons of low or moderate income residing within its jurisdiction, or make loans to those homeowners; (2) purchase homes within its jurisdiction that have been foreclosed and are vacant, and sell

those homes to persons or families of low or moderate income; and (3) provide mortgage or credit counseling services to existing or prospective low- or moderate-income homeowners within its jurisdiction.

The bill would authorize the agency to expend any money that is not held in the fund to provide similar services without regard to income.

The bill would require that funds be expended pursuant to these provisions in a manner that preserves the exemption from federal and state income taxes of interest on the bonds or notes issued by the agency under the Community Redevelopment Law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7 (commencing with Section 33700) is added to Part 1 of Division 24 of the Health and Safety Code, to read:

CHAPTER 7. HOME MORTGAGE LOANS

33700. The Legislature finds and hereby declares all of the following:

(a) The end of the housing boom in 2005 has led to declining housing prices and the reduced availability of mortgage credit.

(b) As housing prices fall, delinquencies and foreclosures on subprime *and nontraditional* mortgages have increased to historically high levels. Lenders with exposure to subprime *and nontraditional* mortgage losses have tightened their lending standards. Consequently, homeowners with subprime *and nontraditional* mortgages are having difficulty refinancing into more affordable loans.

(c) With many subprime *and nontraditional* mortgages facing their first interest reset during 2008 and 2009, mortgage foreclosures will increase significantly and, along with falling housing prices, may overwhelm the ability of mortgage markets to restructure or refinance loans for creditworthy borrowers.

(d) Home foreclosures impose significant costs not only on borrowers and lenders, but also on local governments, neighboring homeowners, and others with a financial stake in nearby properties.

This is particularly true of subprime *and nontraditional* mortgage

1 foreclosures because they tend to be concentrated geographically.
2 The effect of multiple foreclosures in limited geographic areas can
3 cause declines in property values, accelerating the decline of entire
4 neighborhoods. Increased crime and vandalism, lack of proper
5 maintenance, and the spread of blight are other consequences of
6 concentrated foreclosures in limited geographic areas.

7 (e) Decent housing for all of the people of this state is vital to
8 the state's future peace and prosperity.

9 (f) A fundamental purpose of redevelopment is to expand the
10 supply of low-income and moderate-income housing.

11 (g) In order to more effectively respond to the current crisis in
12 subprime *and nontraditional* mortgage foreclosures, redevelopment
13 agencies should be given greater flexibility on a temporary basis
14 to do all of the following:

15 (1) Acquire, assume, or refinance existing subprime *and*
16 *nontraditional* mortgages *in default or at risk of default*, or make
17 loans to eligible homeowners faced with foreclosure.

18 (2) Acquire and then maintain, resell, or rent foreclosed homes.

19 33701. For the purposes of this chapter, the following terms
20 have the following meanings, unless the context clearly requires
21 otherwise:

22 (a) "Eligible homeowner" means the trustor of a subprime *or*
23 *nontraditional* mortgage who occupies a home encumbered by the
24 subprime *or nontraditional* mortgage as his or her principal place
25 of residence, if either of the following applies:

26 ~~(1) The obligation secured by the subprime mortgage is more~~
27 ~~than 90 days in default.~~

28 *(1) The obligation secured by the subprime or nontraditional*
29 *mortgage has a payment that is 30 days or more past due or has*
30 *a scheduled interest rate increase that will create a financial*
31 *hardship likely to produce a default.*

32 (2) A notice of default has been recorded against the obligation
33 secured by the subprime *or nontraditional* mortgage pursuant to
34 Section 2924 of the Civil Code.

35 (b) The "fund" is the Low and Moderate Income Housing Fund
36 established pursuant to Section 33334.3.

37 (c) "Nontraditional mortgage" means a consumer loan that
38 allows the borrower to defer payment of principal and, under
39 certain circumstances, interest, as set forth in the "Interagency

1 *Guidance on Nontraditional Mortgage Product Risks*” (71 Fed.
2 Reg. 58609 (Oct. 4, 2006)).

3 (e)

4 (d) (1) “Subprime mortgage” means a deed of trust securing a
5 loan that was issued for the purchase of a single-family home, that
6 was originated with a borrower having a Fair Isaac Corporation
7 (FICO) score of less than 620 on a scale of 300 to 850, inclusive,
8 and that meets one of the following conditions: a loan that was
9 originated on or after January 1, 2002, was issued for the purchase
10 of a single-family home, residential condominium, or townhome,
11 but not a mobilehome, and meets one of the following conditions:

12 (A) Has an annual percentage rate that is more than one of the
13 following:

14 (i) For a senior loan, 3 percent, plus the yield on United States
15 Treasury notes with comparable maturities.

16 (ii) For a subordinate loan, 5 percent, plus the yield on United
17 States Treasury notes with comparable maturities.

18 (B) Has interest-only payments, or an adjustable rate that may
19 lead to negative amortization.

20 (2) “Subprime mortgage” does not include a subordinate home
21 equity line of credit or a reverse mortgage.

22 33702. (a) (1) The agency may expend money from the fund
23 to purchase, assume, or refinance subprime *or nontraditional*
24 mortgages on homes owned by ~~persons~~ *eligible homeowners* of
25 low or moderate income residing within its jurisdiction, or make
26 loans to those *eligible* homeowners. The agency shall require that
27 housing units assisted from the fund pursuant to this subdivision
28 remain available to, and occupied by, persons and families of low
29 or moderate income for either of the following periods:

30 (A) Forty-five years, in which case the agency shall be entitled
31 to receive ~~full housing production~~ credit under subdivision (b) of
32 Section 33413 for each unit assisted.

33 (B) Fifteen years, in which case the agency shall be entitled to
34 receive one-third housing production credit under subdivision (b)
35 of Section 33413 for each unit assisted.

36 (2) The agency may permit sales of housing units prior to the
37 expiration of the 45-year or 15-year period, as the case may be,
38 pursuant to an adopted program that protects the agency’s
39 investment of moneys from the fund, including, but not limited
40 to, an equity sharing program that establishes a schedule of equity

1 sharing that permits retention by the seller of a portion of the
2 proceeds of sale based on the length of occupancy. The remainder
3 of the proceeds of the sale shall be allocated to the agency and
4 deposited in the fund. The agency shall require the recording in
5 the office of the county recorder of documents implementing this
6 subdivision that are substantially similar in form and content to
7 those required by paragraph (3) of subdivision (f) of Section
8 33334.3.

9 (b) The amount of assistance provided under subdivision (a)
10 from the fund for any single eligible homeowner shall not exceed
11 _____ dollars (\$_____).

12 ~~—(c) The agency may also expend money from the fund to provide~~
13 ~~mortgage or credit counseling services to existing or prospective~~
14 ~~low- or moderate-income homeowners within its jurisdiction; an~~
15 ~~amount equal to the loan to value ratio applied by the Federal~~
16 ~~Housing Administration for an insured loan for the applicable~~
17 ~~geographic area, multiplied by the current value of the home.~~

18 (c) Section 33334.4 shall apply to moneys expended from the
19 fund under this section.

20 33703. (a) The agency may expend any money that is not held
21 in the fund to purchase, assume, or refinance ~~subprime~~, or assist
22 ~~lenders or nonprofit or for-profit developers in purchasing,~~
23 ~~assuming, or refinancing, subprime or nontraditional mortgages~~
24 ~~on homes owned by persons who are not of low or moderate~~
25 ~~income and eligible homeowners who~~ reside within its jurisdiction,
26 or make loans to those *eligible* homeowners, if the combined
27 annual income of the members of the *eligible* homeowner's
28 household does not exceed 150 percent of area median income,
29 adjusted for family size by the department in accordance with
30 adjustment factors adopted and amended from time to time.

31 (b) The amount of assistance provided under subdivision (a)
32 from the fund for any single eligible homeowner shall not exceed
33 _____ dollars (\$_____); *an amount equal to the loan to value ratio*
34 *applied by the Federal Housing Administration for an insured*
35 *loan for the applicable geographic area, multiplied by the current*
36 *value of the home.*

37 (c) The agency may also expend money that is not held in the
38 fund to provide mortgage or credit counseling services to existing
39 or prospective homeowners who qualify for assistance under
40 subdivision (a).

1 33704. (a) The agency may expend money from the fund to
2 purchase homes within its jurisdiction that have been foreclosed
3 and are vacant, and sell those homes to persons or families of low
4 or moderate income. The agency shall require that housing units
5 purchased and sold pursuant to this section remain available to,
6 and occupied by, persons and families of low or moderate income
7 for either of the following periods:

8 (1) Forty-five years, in which case the agency shall be entitled
9 to receive full housing production credit under subdivision (b) of
10 Section 33413 for each unit assisted.

11 (2) Fifteen years, in which case the agency shall be entitled to
12 receive one-third housing production credit under subdivision (b)
13 of Section 33413 for each unit assisted.

14 (b) The agency may permit sales of housing units prior to the
15 expiration of the 45-year or 15-year period, as the case may be,
16 pursuant to an adopted program that protects the agency's
17 investment of moneys from the fund, including, but not limited
18 to, an equity sharing program that establishes a schedule of equity
19 sharing that permits retention by the seller of a portion of the
20 proceeds of sale based on the length of occupancy. The remainder
21 of the proceeds of the sale shall be allocated to the agency and
22 deposited in the fund. The agency shall require the recording in
23 the office of the county recorder of documents implementing this
24 subdivision that are substantially similar in form and content to
25 those required by paragraph (3) of subdivision (f) of Section
26 33334.3.

27 (c) *Homes purchased under this section may be managed,*
28 *maintained, and rented prior to resale.*

29 (d) *Section 33334.4 shall apply to moneys expended from the*
30 *fund under this section.*

31 33705. (a) The agency may expend any money that is not held
32 in the fund to purchase, *or assist lenders or nonprofit or for-profit*
33 *developers in purchasing,* homes within its jurisdiction that have
34 been foreclosed and are vacant, for sale to any purchaser, regardless
35 of income.

36 (b) *Homes purchased under this section may be managed,*
37 *maintained, and rented prior to resale.*

38 33706. Funds shall be expended pursuant to this chapter in a
39 manner that preserves the exemption from federal and state income

1 taxes of interest on the bonds or notes issued by the agency under
2 this division, *if applicable* .

3 33707. This chapter shall apply notwithstanding any other
4 provision of this division.

5 33708. *Consistent with this chapter, the agency may adopt*
6 *local criteria governing the use of funds and provision of other*
7 *assistance authorized under this chapter; including, but not limited*
8 *to, limiting assistance to defined neighborhoods or a geographic*
9 *area, or targeting specific income categories.*

10 ~~33708.~~

11 33709. This chapter shall remain in effect only until January
12 1, 2013, and as of that date is repealed, unless a later enacted
13 statute, that is enacted before January 1, 2013, deletes or extends
14 that date.